

Oral Hearing:  
October 5, 1999

Paper No. 20  
CEW

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDENT OF THE TTAB      APRIL 28, 00

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Auto Wax Company, Inc.

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Serial No. 75/130,696

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Eric B. Meyertons of Conley, Rose & Tayon for applicant.

Gerald C. Seegars, Trademark Examining Attorney, Law Office  
106 (Mary I. Sparrow, Managing Attorney).

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Before Cissel, Hohein and Walters, Administrative Trademark  
Judges.

Opinion by Walters, Administrative Trademark Judge:

Auto Wax Company, Inc. has filed an application to  
register the mark THE PROFESSIONAL DETAILERS' SECRET for  
"cleaning preparations, waxes, and polishes for use on the  
surface of vehicles, boats and airplanes."<sup>1</sup>

The Trademark Examining Attorney has finally required,  
under Section 6 of the Trademark Act, 15 U.S.C. 1056, a

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<sup>1</sup> Serial No. 75/130,696, in International Class 3, filed July 8, 1996,  
based on an allegation of use of the mark in commerce, alleging first  
use and use in commerce as of September, 1994.

disclaimer of THE PROFESSIONAL DETAILERS' apart from the mark as a whole on the ground, under Section 2(e)(1) of the Trademark Act, 15 U.S.C. 1052(e)(1), that this portion of applicant's mark is merely descriptive in connection with its goods.

Applicant has appealed. Both applicant and the Examining Attorney have filed briefs, and an oral hearing was held. We affirm the requirement for the disclaimer.

The Examining Attorney contends that the phrase THE PROFESSIONAL DETAILERS' in the mark merely describes to applicant's customers that applicant's goods "are of the type and quality that professional detailers use in the detailing trade"; and that this is "a major feature and attribute" of the goods. The Examining Attorney contends that "'professional detailers' are a group of professional people who engage in the practice of 'detailing' automobiles and other types of vehicles"; that THE PROFESSIONAL DETAILERS' SECRET is not a unitary phrase; and that the addition of SECRET to the term PROFESSIONAL DETAILERS' does not alter the descriptive significance of that term. In support of his position, the Examining Attorney has submitted excerpts of articles from the LEXIS/NEXIS database which show use of the terms

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"professional detailers" and "professional detailing" to refer to businesses that clean the interiors and exteriors of vehicles. The Examining Attorney has also submitted copies of several third-party registrations for marks incorporating the terms "professional" and "detailing" in connection with the same or related goods, and including a disclaimer of, or Section 2(f) claim in relation to, these terms.<sup>2</sup>

Applicant contends that the mark is suggestive and it is a unitary slogan that "creates a commercial impression separate and apart from any unregistrable component." Applicant argues that, rather than connoting that the product is used by professional detailers, the mark connotes "that the heretofore 'secret' product can be bought and used by general members of the public."

To determine whether the THE PROFESSIONAL DETAILERS' portion of applicant's mark is merely descriptive in connection with applicant's goods, we consider whether this

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<sup>2</sup> While third-party registrations are not evidence of use of the marks, such registrations are of some probative value in considering the issue of descriptiveness. The appearance of the term in a significant number of third-party registrations for marks identifying the same or closely related goods or services would tend to indicate, at least, that the term is of limited trademark significance. This is particularly true where the term is either disclaimed or subject to a claim under Section 2(f) in each such registration. We note that applicant has not submitted copies of other third-party registrations containing the term without a disclaimer. While we do not rest our conclusion in this case on the third-party registrations of record, this evidence serves to

term immediately conveys information concerning a significant quality, characteristic, function, ingredient, attribute or feature of applicant's product. *In re Bright-Crest, Ltd.*, 204 USPQ 591 (TTAB 1979); *In re Engineering Systems Corp.*, 2 USPQ2d 1075 (TTAB 1986). We determine this question on the basis of the identification of goods in the application before us. See, *In re Allen Electric and Equipment Co.*, 458 F.2d 1404, 173 USPQ 689 (CCPA 1972); *In re Vehicle Information Network Inc.*, 32 USPQ2d 1377 (TTAB 1994); and *In re Cryomedical Sciences Inc.*, 32 USPQ2d 1377 (TTAB 1994).

Notwithstanding applicant's arguments to the contrary, we find that the term THE PROFESSIONAL DETAILERS', considered in connection with the goods identified, immediately conveys, without conjecture, to customers of the products identified in the application the quality of the products, namely, that the goods are of a high quality as would be used by professional detailers. The word THE in the mark merely modifies the term PROFESSIONAL DETAILERS' and is without trademark significance.

As the Examining Attorney notes, the addition of the term SECRET does not change the descriptive significance of

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bolster our decision herein that THE PROFESSIONAL DETAILERS' is merely descriptive in connection with the identified goods.

the phrase THE PROFESSIONAL DETAILERS in connection with applicant's identified goods, nor does it otherwise create a unitary mark for purposes of our consideration of the disclaimer issue. The word SECRET in the mark merely suggests that these products may have been unknown or unavailable to the general consumer.<sup>3</sup>

In conclusion, we find that THE PROFESSIONAL DETAILERS' is merely descriptive in connection with cleaning preparations, waxes, and polishes for use on the surface of vehicles, boats and airplanes, the goods identified herein; that it is a separable element of the mark THE PROFESSIONAL DETAILERS' SECRET; and, therefore, that the requirement for a disclaimer of THE PROFESSIONAL DETAILERS' is appropriate.

*Decision:* The requirement for a disclaimer of THE PROFESSIONAL DETAILERS' is affirmed. This decision will be set aside, and applicant's mark will be published for opposition, however, if applicant submits an appropriate disclaimer of THE PROFESSIONAL DETAILERS' within thirty

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<sup>3</sup> Similarly, the apostrophe at the end of the word DETAILERS in the mark is merely a grammatical requirement that does not affect the commercial impression of the mark.

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days from the mailing date of this decision. See,  
Trademark Rule 2.142(g).

R. F. Cissel

G. D. Hohein

C. E. Walters  
Administrative Trademark Judges,  
Trademark Trial and Appeal Board